

**IN THE UNITED STATES DISTRICT
COURT FOR THE WESTERN
DISTRICT OF MISSOURI - WESTERN
DIVISION**

BARBARA JOHNSON, *et al.*,

Plaintiffs,

v.

GOVERNOR MICHAEL L. PARSON,
et. al.,

Defendants.

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Case No.: 4:24-cv-00174

**PLAINTIFFS’ UNOPPOSED MOTION FOR EXTENSION OF TIME –
OUT OF TIME – TO FILE REPLY SUGGESTIONS ADDRESSING
DEFENDANTS’ ARGUMENTS OPPOSING PLAINTIFFS’ MOTION
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

COME NOW Plaintiffs, by and through their undersigned counsel, and, pursuant to Fed. R. Civ. P. 6(b)(1)(B), respectfully request an extension of time of thirty (30) days to file their Reply Suggestions Addressing Defendants’ Arguments Opposing Plaintiffs’ Motion for Leave to File Second Amended Complaint (hereinafter “Reply Suggestions”), as ordered by this honorable Court on September 11, 2024, up to and including Friday, October 25, 2024. In support of this Motion for Extension of Time, Plaintiffs refer this Court to the following Suggestions in Support:

1. This case was filed by Plaintiffs on March 11, 2024 by Spencer J. Webster.
2. On March 12, 2024, Brian F. McCallister and Arthur A. Benson, II

separately entered their appearances on behalf of the named Plaintiffs.

3. Since filing their entries of appearance on March 12, 2024, Mr. McCallister and Mr. Benson have been involved in this case in supporting roles, not lead roles.

4. Since the time this case was filed on March 11, 2024 by Spencer J. Webster, Mr. Webster has been lead counsel of record for the Plaintiffs.¹

5. On June 20, 2024, Mr. Webster filed Plaintiffs' Motion for Leave to File a Second Amended Complaint and Suggestions in Support. (Doc. 28 and 29.)

6. On July 15, 2024, the State Defendants filed their Suggestions Opposing Plaintiffs' Motion for Leave to File Second Amended Complaint. (Doc. 40.)

7. On September 11, 2024, this Court entered an Order titled "Order Directing Plaintiffs to File Reply Suggestions Supporting Their Motion for Leave to File Second Amended Complaint," stating, in pertinent part, "[p]laintiffs are directed to file Reply Suggestions addressing Defendants' arguments and explaining why the claims they wish to add are not futile." (Doc. 45, p. 1.) This Court ordered that Plaintiffs file their Reply Suggestions "[o]n or before September 25, 2024." That was yesterday.

8. On today's date, September 26, 2024, Michael Seitz, one of the lawyers for

¹ The original Complaint filed on March 11, 2024 was filed by Mr. Webster. Mr. McCallister and Mr. Benson did not enter their appearances until March 12, 2024 "as additional counsel of record," not as lead counsel of record. The Clerk of this Court, however, mistakenly listed Mr. McCallister as "lead" counsel for Plaintiffs.

the Kansas City, Missouri Board of Police Commissioners and its members, telephoned Mr. McCallister and informed him that counsel for Plaintiffs, Spencer J. Webster, had been suspended from the practice of law by order of the Missouri Supreme Court on July 23, 2024. This was the first time Mr. McCallister had been informed of – or even knew about – Mr. Webster’s suspension. Mr. McCallister promptly reported Mr. Spencer’s suspension from the practice of law to his co-counsel, Arthur A. Benson, II, who likewise knew nothing of Mr. Webster’s suspension from the practice of law. Mr. Seitz also informed Mr. McCallister that no Reply Suggestions were filed by Mr. Webster on the deadline for the filing of the Reply Suggestions.

9. Fed. R. Civ. P. 6(b)(1)(B) states:

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time: ... (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

10. This Motion for Extension of Time is filed one day after the due date for the filing of Plaintiffs’ Reply Suggestions. Prejudice would befall the Plaintiffs – through no fault of theirs – if the requested relief is not granted. The excusable neglect of Mr. McCallister and Mr. Benson in failing to file the Reply Suggestions is clear based upon their assignments of providing supporting roles in this case, backing up Mr. Webster in his lead role as lead counsel for Plaintiffs. Mr. McCallister and Mr. Benson were unaware

of Mr. Webster's suspension, and thought the filing of the Plaintiffs' Reply Suggestions was secure in the hands of Mr. Webster. Unaware of Mr. Webster's suspension from the practice of law, Mr. McCallister and Mr. Benson could not have known Mr. Webster was not taking care of the filing the Plaintiffs' Reply Suggestions, let alone that he was prohibited from filing the Plaintiffs' Reply Suggestions because he is suspended from the practice of law.

11. Mr. McCallister has spoken with counsel for Defendants, Michael Seitz and Caleb Rutledge, who do not oppose this Motion for Extension of Time.

12. This Motion for Extension of Time is not made for any purpose of vexation or delay. Additional time is needed to confer with undersigned counsels' clients, to research the law, to consult with Mr. Webster and to conduct other research and investigation.

WHEREFORE, for good cause shown and for excusable neglect shown, Plaintiffs respectfully request an additional thirty (30) days, up to and including October 25, 2024, to file Plaintiffs Reply Suggestions as ordered by this Court on September 11, 2024, and any other further relief that is just and proper.

Respectfully submitted,

THE MCCALLISTER LAW FIRM,
A PROFESSIONAL CORPORATION

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 26, 2024, a true and accurate copy of the above and foregoing was e-filed with the Court which sent notification to all parties entitled to service.

/s/ Brian F. McCallister
Attorney for Plaintiffs